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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,857	04/19/2005	Michael John Watchorn	TEBL2	4009
6980 7590 09/03/2008 TROUTMAN SANDERS LLP 600 PEACHTREE STREET, NE ATLANTA, GA 30308				
EXAMINER SINGH, SUNIL				
ART UNIT 3672		PAPER NUMBER		
MAIL DATE 09/03/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/531,857

Applicant(s)

WATCHORN, MICHAEL JOHN

Examiner

Sunil Singh

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-8, 10-24 and 29 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 4-8, 10-15, 29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure does not have basis for "the alignment means is detachable from the end part with the end part remains inserted in the foundation" and therefore such recitation constitutes new matter..

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 4-7,29 are rejected under 35 U.S.C. 102(b) as being anticipated by Owens (US 4611953)

Owens discloses a structure (see Figures) mountable in a foundation, the structure includes an end part (see Figures), alignment means (56, 50, 46), a leading conical tip (see Figures). The alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (56,50,46) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket. The alignment means is considered removable because it is capable of being removed (such as when the structure is removed from the socket or by shearing the pin). Re claim 29, see Fig. 9.

5. Claims 4-7,29 are rejected under 35 U.S.C. 102(b) as being anticipated by Glidden (US 4459931)

Glidden discloses a structure (13) mountable in a foundation, the structure includes an end part (see Figures), alignment means (62,63,56), a leading conical tip (13a). The alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (62,63,56) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket. The alignment means is considered removable because it is capable of being removed (such as when the structure is removed from the socket or by shearing the pin/spring member(s)). Re claim 29. see Fig. 3.

6. Claims 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Shatto, Jr. et al. (US 3788396).

Shatto Jr. et al. discloses a structure mountable in a foundation, the structure includes an end part (see Figure 6), alignment means (151,152, 153), a leading conical tip (158). The alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (151,152,153) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket. The alignment means is considered removable because it is capable of being removed (such as when the structure is removed from the socket or by shearing the pin/spring member(s)).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens '953 in view of Hempel et al. (US 4406094) or Schaloske et al. (US 4222683).

Owens discloses the invention substantially as claimed. However, Owens lacks a structure having a spherical part attached its conical tip. Hempel et al. and Schaloske et al. both teach a structure having a conical tip with a spherical part attached thereto (see Figs. 1, 2). It would have been considered obvious to one of ordinary skill in the art to modify Owens to include a spherical part on its conical tip as taught by either Hempel

et al. or Schaloske et al. in order to allow for movement of the structure so as to get the proper orientation.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glidden '931 in view of Hempel et al. (US 4406094) or Schaloske et al. (US 4222683).

Glidden discloses the invention substantially as claimed. However, Glidden lacks a structure having a spherical part attached its conical tip. Hempel et al. and Schaloske et al. both teach a structure having a conical tip with a spherical part attached thereto (see Figs. 1, 2). It would have been considered obvious to one of ordinary skill in the art to modify Glidden to include a spherical part on its conical tip as taught by either Hempel et al. or Schaloske et al. in order to allow for movement of the structure so as to get the proper orientation.

10. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens or Glidden in view of Sullaway et al. or Galle or Sutton or Moog (US 4789271, 4869615, 4902169, 6409428).

Owens and Glidden both disclose the invention substantially as claimed. However, they both lack a foundation having a conical shaped base portion. Sullaway et al., Galle, Sutton and Moog all teach a foundation having a conical shaped base portion (see Figs. 2, 9, 9, 2). It would have been considered obvious to one of ordinary skill in the art to modify either Owens or Glidden to include a conical shaped base in their foundation as taught by either Sullaway et al. or Galle or Sutton or Moog in order to guide the conical shaped end of the structure into the proper orientation.

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens or Glidden in view of Sullaway et al. or Galle or Sutton or Moog as applied to claim 10 above, and further in view of Hempel et al. (US 4406094) or Schaloske et al. (US 4222683).

Owens or Glidden (as modified above) discloses the invention substantially as claimed. However, the Owens or Glidden (as above modified) lack a structure having a spherical part attached its conical tip. Hempel et al. and Schaloske et al. both teach a structure having a conical tip with a spherical part attached thereto (see Figs. 1, 2). It would have been considered obvious to one of ordinary skill in the art to further modify Owens or Glidden (as modified above) to include a spherical part on its conical tip as taught by either Hempel et al. or Schaloske et al. in order to allow for movement of the structure so as to get the proper orientation.

Response to Arguments

12. Applicant's arguments filed 5/27/08 have been fully considered but they are not persuasive. Applicant argues that none of the prior art teaches "an active adjustable alignment means". The examiner disagrees. Owens discloses an active alignment means (56, 50, 46).

Glidden discloses an active alignment means (62,63,56). Shatto Jr. et al. discloses an active alignment means (151,152, 153). With regards to Owens, the alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (56,50,46) pushes against the guide surface of the

socket, the guide surface pushes back and thus move the structure relative to the socket.

With regards to Glidden, the alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (62,63,56) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket.

With regards to Shatto Jr. et al, the alignment means is configured such that adjustment thereof moves the structure relative to the socket. It should be noted that as member (151,152,153) pushes against the guide surface of the socket, the guide surface pushes back and thus move the structure relative to the socket. Therefore, all the above references teach an active alignment means.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/
Primary Examiner, Art Unit 3672

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Primary Examiner
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SS

9/1/08